

submitting the report such model or serial number or, if such model or serial number is not available, a photograph of the product. If the Commission obtains information relating to the serial or model number of the product or a photograph of the product, it shall immediately forward such information to the manufacturer of the product. The Commission shall make the report available in the database on the 15th business day after the date on which the Commission transmits the report under paragraph (1) and shall include in the database any additional information about the product obtained under this paragraph.

(B) Rule of construction

Nothing in this paragraph shall be construed to—

(i) permit the Commission to delay transmission of the report under paragraph (1) until the Commission has obtained the model or serial number or a photograph of the consumer product concerned; or

(ii) make inclusion in the database of a report described in subsection (b)(1)(A) contingent on the availability of the model or serial number or a photograph of the consumer product concerned.

(d) Annual report

The Commission shall submit to the appropriate Congressional committees an annual report on the database, including—

(1) the operation, content, maintenance, functionality, and cost of the database for the reporting year; and

(2) the number of reports and comments for the year—

(A) received by the Commission under this section;

(B) posted on the database; and

(C) corrected on or removed from the database.

(e) GAO study

Within 2 years after the date on which the Commission establishes the database under this section, the Comptroller General shall submit a report to the appropriate Congressional committees containing—

(1) an analysis of the general utility of the database, including—

(A) an assessment of the extent of use of the database by consumers, including whether the database is accessed by a broad range of the public and whether consumers find the database to be useful; and

(B) efforts by the Commission to inform the public about the database; and

(2) recommendations for measures to increase use of the database by consumers and to ensure use by a broad range of the public.

(f) Application of certain notice and disclosure requirements

(1) In general

The provisions of section 2055(a) and (b) of this title shall not apply to the disclosure under this section of a report described in subsection (b)(1)(A) of this section.

(2) Construction

Paragraph (1) shall not be construed to exempt from the requirements of section 2055(a) and (b) of this title information received by the Commission under—

(A) section 2064(b) of this title; or

(B) any other mandatory or voluntary reporting program established between a retailer, manufacturer, or private labeler and the Commission.

(g) Harm defined

In this section, the term “harm” means—

(1) injury, illness, or death; or

(2) risk of injury, illness, or death, as determined by the Commission.

(Pub. L. 92-573, §6A, as added Pub. L. 110-314, title II, §212(a), Aug. 14, 2008, 122 Stat. 3048; amended Pub. L. 112-28, §7, Aug. 12, 2011, 125 Stat. 281.)

AMENDMENTS

2011—Subsec. (c)(3)(A). Pub. L. 112-28, §7(1), inserted “or paragraph (5)” after “paragraph (4)(A)”.

Subsec. (c)(4)(A). Pub. L. 112-28, §7(2), substituted “receives notice that the information in such report or comment is materially inaccurate, the Commission shall stay the publication of the report on the database as required under paragraph (3) for a period of no more than 5 additional days. If the Commission determines that the information in such report or comment is materially inaccurate, the Commission shall—” for “determines that the information in such report or comment is materially inaccurate, the Commission shall—” in introductory provisions.

Subsec. (c)(5). Pub. L. 112-28, §7(3), added par. (5).

§ 2056. Consumer product safety standards

(a) Types of requirements

The Commission may promulgate consumer product safety standards in accordance with the provisions of section 2058 of this title. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements expressed in terms of performance requirements.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable risk of injury associated with such product.

(b) Reliance of Commission upon voluntary standards

(1) The Commission shall rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard prescribing requirements described in subsection (a) of this section whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards.

(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

(A) upon which the Commission has relied under paragraph (1);

(B) which were developed with the participation of the Commission; or

(C) whose development the Commission has monitored.

(c) Contribution of Commission to development cost

If any person participates with the Commission in the development of a consumer product safety standard, the Commission may agree to contribute to the person's cost with respect to such participation, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the person is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings. Payments under agreements entered into under this subsection may be made without regard to section 3324(a) and (b) of title 31.

(Pub. L. 92-573, § 7, Oct. 27, 1972, 86 Stat. 1212; Pub. L. 94-284, §§ 6, 7, 8(a), May 11, 1976, 90 Stat. 505, 506; Pub. L. 95-631, §§ 3, 4(a)-(c), 5, Nov. 10, 1978, 92 Stat. 3742-3744; Pub. L. 97-35, title XII, § 1202, Aug. 13, 1981, 95 Stat. 703; Pub. L. 101-608, title I, § 107(a), Nov. 16, 1990, 104 Stat. 3111.)

CODIFICATION

In subsec. (c), "section 3324(a) and (b) of title 31" substituted for "section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)" on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-608 designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (a). Pub. L. 97-35 amended subsec. (a) generally, and in the requirements for consumer product safety standards, struck out reference to composition, contents, design, construction, finish, or packaging of consumer products, and struck out provision that the requirements of the standards other than requirements relating to labeling, warnings, or instructions, shall, whenever, feasible, be expressed in terms of performance requirements.

Subsec. (b). Pub. L. 97-35 amended subsec. (b) generally, substituting provisions relating to the reliance by the Commission upon voluntary standards for provisions prescribing procedure for development of consumer product safety standards.

Subsec. (c). Pub. L. 97-35 amended subsec. (c) generally, substituting provisions relating to contribution by the Commission to the development cost of consumer safety standards for provisions relating to publication of proposed safety rules developed from existing standards.

Subsec. (d). Pub. L. 97-35 struck out subsec. (d) which related to the acceptance of offers to develop proposed standards and the Commission's contribution to development costs.

Subsec. (e). Pub. L. 97-35 struck out subsec. (e) which related to development of proposed safety rules by the Commission.

Subsec. (f). Pub. L. 97-35 struck out subsec. (f) which provided for termination of rule-making proceedings and a statement relating to the reasons therefor.

1978—Subsec. (b). Pub. L. 95-631, § 3, designated existing provision as par. (1), and in par. (1) as so redesignated, redesignated pars. (1) to (4) as subpars. (A) and

(D), in subpar. (D) as so redesignated, inserted provision including as a means of commencing a proceeding, a publication in the Federal Register of a statement that the Commission intends to develop the proposed consumer product safety standard, added subpar. (E), struck out provision that the period specified within which the offeror of an accepted offer develops the proposed standard be a period ending 150 days after the date the offer was accepted unless the Commission for good cause found, and included such finding in the notice that a different period was appropriate, and added par. (2).

Subsec. (c). Pub. L. 95-631, § 5, amended subsec. (c) generally, inserting provisions relating to subsec. (b)(1)(D) and striking out provisions for publication of a proposed consumer product safety rule, in lieu of acceptance of an offer under subsec. (d), where a standard had been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution and the standard if promulgated under the chapter would eliminate or reduce the unreasonable risk of injury associated with the product.

Subsec. (d)(1). Pub. L. 95-631, § 4(a)(1), inserted "subsection (b)(2) and by" after "as provided by" and substituted references to subsec. (b)(1)(D)(ii)(I) for (b)(4)(B) of this section and subsec. (b)(1)(E) for (b) of this section.

Subsec. (d)(2). Pub. L. 95-631, § 4(a)(2)(A)-(C), inserted in first sentence "or if any person participates with the Commission in the development of a consumer product safety standard under subsection (b)(2)(A) or subsection (e) of this section" after "under this subsection", "or the person's cost with respect to such participation" after "safety standards" and "or person" after "offeror".

Subsec. (d)(4). Pub. L. 95-631, § 4(a)(3), added par. (4).

Subsec. (e). Pub. L. 95-631, § 4(b), amended provisions generally, and among other changes, substituted references to subsec. (b)(1)(D)(ii)(I) of this section for prior references to subsec. (b) of this section, and struck out par. (3) defining the development period, now covered in subsec. (b)(1)(E) of this section.

Subsec. (f). Pub. L. 95-631, § 4(c), amended provisions generally, and among other changes, reduced the period within which to publish a proposed consumer product safety standard to forty-five days from 150 days and required the publication in the Federal Register of the reasons for not publishing the proposed standard, including a statement indicative of the taking of other approaches such as a voluntary consumer safety standard adopted by persons to be subject to the proposed standard.

1976—Subsec. (a). Pub. L. 94-284, § 6, designated existing provision as par. (1), redesignated as subpars. (A) and (B) existing pars. (1) and (2), and added par. (2).

Subsec. (b). Pub. L. 94-284, § 7(a), substituted "date the offer is accepted" for "publication of notice" in provision following par. (4)(B).

Subsec. (d)(2). Pub. L. 94-284, § 8(a), inserted provision which permits the Commission to advance public moneys without the need of authorized appropriations as required by section 529 of title 31.

Subsec. (e). Pub. L. 94-284, § 7(b), permitted the Commission to develop and publish a proposed consumer safety product rule if the development period as specified in par. (3) ends.

Subsec. (f). Pub. L. 94-284, § 7(c), provided that if within 60 days after publication of notice for a proceeding for the development of a consumer product safety standard (or longer if the Commission so prescribe), no offer is submitted or none is acceptable, the Commission terminate the proceeding or develop proposals of its own, which proposals be published as a rule within 150 days after the expiration of the 60 day period or the proceeding then terminated, and that if an offer is accepted within the 60 day period, then within 210 days after acceptance, the Commission must publish the proposal as a rule or terminate the proceeding.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 applicable with respect to regulations under this chapter and chapters 25 and 30

of this title for which notices of proposed rulemaking are issued after Aug. 14, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

CHILDREN'S GASOLINE BURN PREVENTION

Pub. L. 110-278, July 17, 2008, 122 Stat. 2602, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Children’s Gasoline Burn Prevention Act’.

“SEC. 2. CHILD-RESISTANT PORTABLE GASOLINE CONTAINERS.

“(a) CONSUMER PRODUCT SAFETY RULE.—The provision of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

“(b) REQUIREMENTS.—Effective 6 months after the date of enactment of this Act [July 17, 2008], each portable gasoline container manufactured on or after that date for sale in the United States shall conform to the child-resistance requirements for closures on portable gasoline containers specified in the standard ASTM F2517-05, issued by ASTM International.

“(c) DEFINITION.—As used in this Act, the term ‘portable gasoline container’ means any portable gasoline container intended for use by consumers.

“(d) REVISION OF RULE.—If, after the enactment of this Act, ASTM International proposes to revise the child resistance requirements of ASTM F2517-05, ASTM International shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 60 days of such notice, the Commission notifies ASTM International that the Commission has determined that such revision does not carry out the purposes of subsection (b).

“(e) IMPLEMENTING REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section, and sections 7 and 9 of the Consumer Product Safety Act [15 U.S.C. 2056, 2058] shall not apply to such issuance.

“(f) REPORT.—Not later than 2 years after the date of enactment of this Act [July 17, 2008], the Consumer Product Safety Commission shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

- “(1) the degree of industry compliance with the standard promulgated under subsection (a);
- “(2) any enforcement actions brought by the Commission to enforce such standard; and
- “(3) incidents involving children interacting with portable gasoline containers (including both those that are and are not in compliance with the standard promulgated under subsection (a)).”

AUTOMATIC GARAGE DOOR OPENERS

Pub. L. 101-608, title II, §203, Nov. 16, 1990, 104 Stat. 3123, provided that:

“(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act [15 U.S.C. 2058].

“(b) REQUIREMENTS.—

“(1) Effective on and after January 1, 1991, each automatic residential garage door opener manufactured on or after that date for sale in the United States shall conform to the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, as revised May 4, 1988.

“(2)(A) Effective on and after January 1, 1993, all residential automatic garage door openers manufac-

tured on and after such date for sale in the United States shall conform to any additional entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, which were issued after the date of the enactment of this Act [Nov. 16, 1990] to become effective on or before January 1, 1993.

“(B) If, by June 1, 1992, the Underwriters Laboratories, Inc., has not issued a revision to the May 4, 1988, Standards for Safety—UL 325, third edition, to require an entrapment protection feature or device in addition to that required by the May 4, 1988, Standard, the Consumer Product Safety Commission shall begin a rulemaking proceeding, to be completed no later than October 31, 1992, to require an additional such feature or device on all automatic residential garage door openers manufactured on or after January 1, 1993, for sale in the United States. If such a revision is issued by the Underwriters Laboratories, Inc. after the rulemaking has commenced, the rulemaking shall be terminated and the revision shall be incorporated in the consumer product safety rule under subsection (a) unless the Commission has determined under subsection (c) that such revision does not carry out the purposes of subsection (b).

“(c) REVISION OF RULE.—If, after June 1, 1992, or the date of a revision described in subsection (b)(2)(B) if later, the Underwriters Laboratories, Inc. proposes to further revise the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, the Laboratories shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 30 days of such notice, the Commission notifies the Laboratories that the Commission has determined that such revision does not carry out the purposes of subsection (b).

“(d) LABELING.—On and after January 1, 1991, a manufacturer selling or offering for sale in the United States an automatic residential garage door opener manufactured on or after January 1, 1991, shall clearly identify on any container of the system and on the system the month or week and year the system was manufactured and its conformance with the requirements of subsection (b). The display of the UL logo or listing mark, and compliance with the date marking requirements of UL 325, on both the container and the system, shall satisfy the requirements of this subsection.

“(e) NOTIFICATION.—Effective on and after July 1, 1991, all manufacturers of automatic residential garage door openers shall, in consultation with the Consumer Product Safety Commission, notify the public of the potential for entrapment by garage doors equipped with automatic garage door openers and advise the public to test their openers for the entrapment protection feature or device required by subsection (b).

“(f) PREEMPTION.—In applying section 26(a) of the Consumer Product Safety Act (15 U.S.C. 2075) [15 U.S.C. 2075(a)] with respect to the consumer product safety rule of the Consumer Product Safety Commission under subsection (a), only those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule provides shall be subject to such section.

“(g) REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section and sections 7 and 9 of the Consumer Product Safety Act [15 U.S.C. 2056, 2058] do not apply to such issuance. Any additional or revised requirement issued by the Commission shall provide an adequate degree of protection to the public.

“(h) CONSTRUCTION.—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law.”

§ 2056a. Standards and consumer registration of durable nursery products

(a) Short title

This section may be cited as the “Danny Keysar Child Product Safety Notification Act”.

(b) Safety standards

(1) In general

The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products; and

(B) in accordance with section 553 of title 5, promulgate consumer product safety standards that—

(i) are substantially the same as such voluntary standards; or

(ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

(2) Timetable for rulemaking

Not later than 1 year after August 14, 2008, the Commission shall commence the rulemaking required under paragraph (1) and shall promulgate standards for no fewer than 2 categories of durable infant or toddler products every 6 months thereafter, beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the standards set forth under this subsection to ensure that such standards provide the highest level of safety for such products that is feasible.

(3) Judicial review

Any person adversely affected by such standards may file a petition for review under the procedures set forth in section 2060(g) of this title, as added by section 236 of this Act.

(4) Process for considering subsequent revisions to voluntary standard

(A) Notice of adoption of voluntary standard

When the Commission promulgates a consumer product safety standard under this subsection that is based, in whole or in part, on a voluntary standard, the Commission shall notify the organization that issued the voluntary standard of the Commission’s action and shall provide a copy of the consumer product safety standard to the organization.

(B) Commission action on revised voluntary standard

If an organization revises a standard that has been adopted, in whole or in part, as a

consumer product safety standard under this subsection, it shall notify the Commission. The revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 2058 of this title, effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

(c) Cribs

(1) In general

It shall be a violation of section 2068(a)(1) of this title for any person to which this subsection applies to manufacture, sell, contract to sell or resell, lease, sublet, offer, provide for use, or otherwise place in the stream of commerce a crib that is not in compliance with a standard promulgated under subsection (b).

(2) Persons to which subsection applies

This subsection applies to any person that—

(A) manufactures, distributes in commerce, or contracts to sell cribs;

(B) based on the person’s occupation, holds itself out as having knowledge or skill peculiar to cribs, including child care facilities and family child care homes;

(C) is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or

(D) owns or operates a place of public accommodation affecting commerce (as defined in section 2203 of this title applied without regard to the phrase “not owned by the Federal Government”).

(3) Application of any revision

With respect to any revision of the standard promulgated under subsection (b)(1)(B) subsequent to the initial promulgation of a standard under such subsection, paragraph (1) shall apply only to a person that manufactures or imports cribs, unless the Commission determines that application to any other person described in paragraph (2) is necessary to protect against an unreasonable risk to health or safety. If the Commission determines that application to a person described in paragraph (2) is necessary, it shall provide not less than 12 months for such person to come into compliance.

(4) Crib defined

In this subsection, the term “crib” includes—

(A) new and used cribs;

(B) full-sized or nonfull-sized cribs; and

(C) portable cribs and crib-pens.

(d) Consumer registration requirement

(1) Rulemaking

Notwithstanding any provision of chapter 6 of title 5 or the Paperwork Reduction Act of